

Frequently Asked Questions

October 2013

Process for Tribal Governments to Request a Presidential Declaration

The Sandy Recovery Improvement Act of 2013 (SRIA) amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. § 5121 *et seq.*, (Stafford Act) to provide federally recognized Indian tribal governments (tribal governments) the option to request a Presidential emergency or major disaster declaration independently of a state.

This Frequently Asked Questions document supports the *Overview: Process for Tribal Government Request for a Presidential Declaration*, which outlines current procedures to request Presidential declarations. The process described in the Overview will be used until FEMA finalizes the Tribal Declarations Pilot Guidance.

Now that the Stafford Act allows tribal governments to request Presidential Stafford Act declarations, is my tribal government required to request declarations independently of a state?

No. The Stafford Act now affirms that federally recognized tribal governments determine for themselves how they want to seek Stafford Act assistance. A Chief Executive of a federally recognized tribal government may request the President declare an emergency or major disaster for the tribal government *or* be considered as part of a state's declaration request. The tribal government, however, cannot receive the same type of assistance (i.e., Public Assistance, Individual Assistance, Hazard Mitigation) through both tribal **and** state declarations for the same incident.

Although tribal governments have the choice to seek Stafford Assistance on their own, tribal governments are not *required* to request a declaration independently of a state. The tribal government can still be considered part of a state's request for a declaration if they choose not to request assistance through a direct tribal declaration.

Additionally, should the state receive a declaration which includes tribal lands or infrastructure, and the tribal government chooses to seek Public Assistance and/or Hazard Mitigation under the state's declaration rather than a tribal declaration, the tribal government still has the choice to be either a subgrantee or grantee for Public Assistance and/or Hazard Mitigation under the state declaration.

Which tribal official(s) can submit declaration requests?

The [Stafford Act](#) authorizes the Chief Executive of federally recognized tribal governments to submit emergency and major disaster declaration requests. The Stafford Act defines the Chief Executive as "the person who is the Chief, Chairman, Governor, President, or similar executive official of an Indian tribal government."

In the Chief Executive's absence, the Acting Chief Executive, as determined by tribal law, may submit the request on the Chief Executive's behalf. The Acting Chief Executive **must** provide documentation that he/she has authority to act on behalf of the Chief Executive.

What types of declarations can my Chief Executive request?

The Chief Executive of federally recognized tribal governments is now authorized to submit emergency and major disaster declaration requests.

Can my tribal government directly request Fire Management Assistance Grants (FMAGs)?

No. Tribal governments must continue to seek fire management assistance through state requests to the FEMA Administrator for Fire Management Assistance Grant declarations.

How does my Chief Executive submit a request for an emergency or major disaster declaration?

The Chief Executive must submit [FEMA Form 010-0-13: Request for Presidential Disaster Declaration: Major Disaster or Emergency](#). The form includes the minimum necessary information and certifications legally required by the Stafford Act for a declaration request and must be signed by the Chief Executive. Failure to complete the form may result in failure to meet those requirements and may delay the processing of the declaration request.

A [cover letter, addressed to the President sent through the FEMA Regional Administrator](#), in support of the Chief Executive's request should accompany the form. The cover letter provides the Chief Executive the opportunity to include additional information regarding the impacts of the event on the tribal government and how the impacts are beyond the tribal government's capability and other available resources.

What types of information are included in the declaration request?

- Certification that the severity and magnitude of the disaster exceed tribal government capabilities and that Federal assistance is needed to supplement the efforts of the tribal government, disaster relief organizations, and insurance
- Confirmation of the tribe's emergency plan execution.
- An estimate of the amount and severity of damages.
- Tribal resources that have been or will be committed to alleviate the results of the disaster.
- Certification that the tribal government will comply with all applicable cost-sharing requirements of the Stafford Act.

When does the request need to be submitted?

Emergency and major disaster declaration requests must be submitted **within 30 days** of the date of the incident. If the incident occurs over multiple days, then the 30 days starts on the last day of the incident.

If the tribal government needs additional time to submit a request, then the Chief Executive may submit a written request for a time extension *within 30 days of the date of the incident*, including the amount of time needed and an explanation of why additional time is needed. Time extension

requests should be addressed to the Deputy Associate Administrator, Office of Response and Recovery, through the FEMA Regional Administrator.

Is there a cost share for disaster assistance programs?

Many Stafford Act assistance programs require a cost share to be covered by the tribal government or state grantee, such as:

- Not more than 25 percent of the costs for eligible emergency protective measures, debris removal and/or infrastructure repair and replacement awarded as part of the Public Assistance program.
- Twenty-five (25) percent of the funds awarded through the Hazard Mitigation Grant Program.
- Twenty-five (25) percent of the disaster assistance awarded for the Other Needs Assistance provision of the Individuals and Households Program.

The President has the authority to adjust or waive the cost share for Public Assistance only.

What happens after my Chief Executive submits a declaration request?

After the request is submitted, FEMA reviews and validates the information, then makes a recommendation to the President whether or not to authorize supplemental federal assistance.¹ The President has the sole discretion to declare an emergency or major disaster.

What criteria does FEMA use to evaluate a declaration request and make a recommendation to the President?

FEMA's recommendation to the President is informed by the results of the joint PDA, as well as other pertinent information provided in the declaration request via [FEMA Form 010-0-13](#) and [cover letter](#), and is guided by factors listed in [44 CFR 206.48](#).

For Public Assistance, FEMA evaluates the estimated cost of assistance (i.e., per capita impacts and the \$1 million minimum level of damages), localized impacts, insurance coverage in force, hazard mitigation, recent multiple disasters, and programs of other federal assistance.

For Individual Assistance, FEMA evaluates the concentration of damages, trauma, special populations, voluntary agency assistance, and insurance.

How will my tribal government be notified of the President's decision?

Once the President makes a determination, FEMA's Regional Administrator will promptly notify the Chief Executive or the Chief Executive's designee of the President's decision.

¹ FEMA's declaration recommendation to the President is a pre-decisional and cannot be shared.

Should the President declare an emergency or major disaster, can my tribal government request a cost share adjustment?

Yes. The Chief Executive may request an adjustment to the Public Assistance cost share. FEMA processes cost share adjustment requests for the President and uses factors listed in [44 CFR 206.47](#) to make a recommendation to the President whether or not to adjust the cost share.

What if the declaration request is denied?

If the tribal government's declaration request is denied, the tribal government will receive a letter of the decision. The Chief Executive may appeal the decision **within 30 days of the date of the denial letter** and should include additional information to support the appeal. The appeal should be submitted to the President through the appropriate FEMA Regional Administrator.

If my tribe does not have an approved Tribal Mitigation Plan, then is the Chief able to request a major disaster declaration authorizing Public Assistance and Hazard Mitigation?

Yes. However, the President will not authorize Public Assistance permanent work or Hazard Mitigation under a major disaster declaration to an affected tribal government that does not have a FEMA-approved mitigation plan.

If the President declares a major disaster for a tribal government without a FEMA-approved mitigation plan, he will only authorize Individual Assistance and/or Public Assistance emergency work. The tribal government then has **30 days** from the date of the declaration to submit an approvable mitigation plan. If the tribal government does not submit an approvable mitigation plan within 30 days of the date of declaration, then Public Assistance permanent work and Hazard Mitigation may be denied.

FEMA recommends a tribal government without an approved Tribal Mitigation Plan coordinate with the FEMA Regional office to discuss the implications of the timing of making a declaration request and about the development of an approvable Tribal Mitigation Plan.

If the President declares an emergency or major disaster for my tribal government, then how does my tribal government get assistance authorized in the declaration?

After the President declares an emergency or major disaster, the tribal government will be required to sign a FEMA-Tribe Agreement that contains the understandings, commitments, and conditions under which FEMA's disaster assistance will be provided. Pursuant to FEMA's regulations, no disaster funding or direct federal assistance will be authorized until the FEMA-Tribe Agreement has been signed.

The tribal government also needs to have the following plans before FEMA is able to provide assistance to the tribal government or disaster survivors:

- For Public Assistance, the [Public Assistance Administrative Plan](#).
- For Individual Assistance, the Individuals and Households Program-Other Needs Assistance Administrative Option Selection form.
- For Hazard Mitigation, the Hazard Mitigation Administrative Plan.

In addition, tribal governments need access to the payment management system FEMA uses to transfer Public Assistance and Hazard Mitigation funding to the tribal government.

More information on FEMA's Tribal Policy and the declarations process is available at www.fema.gov/tribal and <http://www.fema.gov/disasters>.

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“FEMA’s mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.”